

LEGISLATIVE BILL 359

Approved by the Governor April 16, 2003

Introduced by Government, Military and Veterans Affairs Committee:
Schimek, 27, Chairperson; Aguilar, 35; Burling, 33; Combs, 32;
McDonald, 41; Smith, 48; Vrtiska, 1

AN ACT relating to elections; to amend sections 32-312 and 32-319, Reissue Revised Statutes of Nebraska, and sections 32-101, 32-914, 32-916, and 32-947, Revised Statutes Supplement, 2002; to change provisions relating to voter registration; to require identification to register to vote and to vote as prescribed; to provide for provisional ballots; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-101, Revised Statutes Supplement, 2002, is amended to read:

32-101. Sections 32-101 to 32-1551 and section 5 of this act shall be known and may be cited as the Election Act.

Sec. 2. Section 32-312, Reissue Revised Statutes of Nebraska, is amended to read:

32-312. The office personnel of the election commissioner or county clerk or the deputy registrar shall examine all persons who may personally apply to register to vote as to his or her qualifications, and in the presence of the applicant, the information listed in this section shall be entered in the register.

CITIZENSHIP--"Are you a citizen of the United States of America?" and boxes to check to indicate whether the applicant is or is not a citizen of the United States.

AGE--"Are you at least eighteen years of age or will you be eighteen years of age on or before the first Tuesday following the first Monday of November of this year?" and boxes to check to indicate whether or not the applicant will be eighteen years of age or older on election day.

WARNING--"If you checked 'no' in response to either of these questions, do not complete this form."

NAME--the name of the applicant giving the first and last name in full, the middle name in full or the middle initial, and the maiden name of the applicant, if applicable.

RESIDENCE--the name and number of the street, avenue, or other location of the dwelling where the applicant resides if there is a number. If the registrant resides in a hotel, apartment, tenement house, or institution, such additional information shall be included as will give the exact location of such registrant's place of residence. If the registrant lives in an incorporated or unincorporated area not identified by the use of roads, road names, or house numbers, the registrant shall state the section, township, and range of his or her residence and the corporate name of the school district as described in section 79-405 in which he or she is located.

POSTAL ADDRESS--the address at which the applicant receives mail if different from the residence address.

ADDRESS OF LAST REGISTRATION--the name and number of the street, avenue, or other location of the dwelling from which the applicant last registered.

TELEPHONE NUMBERS (optional)--the telephone number of the applicant at work and at home. At the request of the applicant, a designation shall be made that the telephone number is an unlisted number, and such designation shall preclude the listing of the applicant's telephone number on any list of voter registrations.

DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER--if the applicant has a Nebraska driver's license, the license number, if the applicant does not have a Nebraska driver's license, the last four digits of the applicant's social security number, and if the applicant does not have a Nebraska driver's license or a social security number, a unique identifying number assigned under this section.

DATE OF APPLICATION FOR REGISTRATION--the month, day, and year when applicant presented himself or herself for registration.

PLACE OF BIRTH (optional)--show the state, country, kingdom, empire, or dominion where the applicant was born.

DATE OF BIRTH--show the date of the applicant's birth. The applicant shall be at least eighteen years of age or attain eighteen years of

age on or before the first Tuesday after the first Monday in November to have the right to register and vote in any election in the present calendar year.

REGISTRATION TAKEN BY--show the signature of the deputy registrar taking the application, if applicable.

PARTY AFFILIATION--show the party affiliation of the applicant as Democrat, Republican, Nonpartisan, or Other (Note: If you wish to vote in both partisan and nonpartisan primary elections for state and local offices, you must indicate a political party affiliation on the registration form. If you register without a political party affiliation (independent), you will receive only the nonpartisan ballots for state and local offices at primary elections. If you register without a political party affiliation, you may vote in partisan primary elections for congressional offices.)

Immediately following the spaces for inserting information as provided in this section, the following statement shall be printed:

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(1) ~~I am at least eighteen years of age or I will be eighteen years of age prior to the first Tuesday following the first Monday of November of this year;~~

~~(2) I am a citizen of the United States;~~

~~(3) I live in the State of Nebraska at the address provided above;~~

~~(4) (2) I have not been convicted of a felony or, if convicted, my civil rights have been restored; and~~

~~(5) (3) I have not been officially found to be non compos mentis (mentally incompetent).~~

Any registrant who signs this form knowing that any of the information in the form is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to five years imprisonment, a fine of up to ten thousand dollars, or both.

APPLICANT'S SIGNATURE--require the applicant to affix his or her signature to the form.

Sec. 3. Section 32-319, Reissue Revised Statutes of Nebraska, is amended to read:

32-319. (1) The Secretary of State shall prescribe a registration form which may be used statewide to register to vote. The form shall contain substantially all the information provided in section 32-312. The form shall include a mail-in portion which may be designed to be detached from the rest of the form for mail-in registrations. The form shall also include an abbreviated transfer of registration form as described in section 32-325. Every election commissioner or county clerk shall accept a registration made on the form prescribed by the Secretary of State.

(2) The mail-in portion of the form shall contain:

(a) A statement shall appear in enlarged, capitalized, bold print on the mail-in portion of the form that the form must be postmarked on or before the third Friday before the election;

(b) A statement informing the applicant that if the form is submitted by mail and the applicant is registering within the county for the first time, the applicant must submit a copy of a photo identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter with the mail-in registration form in order to avoid additional identification requirements upon voting for the first time;

(c) ~~A - The mail-in portion shall also contain a statement that the election commissioner or county clerk will, upon receipt of the registration form, send an acknowledgment of registration to the registrant indicating whether the registration form is proper or not; and a~~

(d) A statement as follows:

NOTE: This application may be delivered to the office of the election commissioner or county clerk by mail, in person, or by personal messenger.

(3) Any voter who is unable to sign his or her name may affix his or her mark before two witnesses who are registered voters in this county.

Sec. 4. Section 32-914, Revised Statutes Supplement, 2002, is amended to read:

32-914. Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-914.03, 32-915, or 32-936. Except as otherwise specifically provided, no ballot shall be handed to any registered voter at any election until (1) he or she announces his or her name and address to the clerk of election, (2) the clerk has found that he or she is a registered voter at the address as shown

by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, 32-914.03, or 32-915, (3) if the voter registered by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county, the clerk shall ask the registered voter to present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter, (4) the clerk has instructed the registered voter to personally write his or her name in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter, and ~~(4)~~ (5) the clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter.

Sec. 5. (1) If a person registered to vote by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county but does not present identification to meet the requirements of subdivision (3) of section 32-914, the person shall be entitled to vote upon completing a voter registration form at the polling place.

(2) The person shall enclose his or her ballot in an envelope marked Provisional Ballot and shall, by signing the front of the envelope or a separate form attached to the envelope, certify to the following facts:

(a) I am a registered voter in County;

(b) I registered to vote on approximately(write the approximate date you registered to vote);

(c) I registered to vote ... by mail, ... on a form through the Department of Motor Vehicles, ... on a form through another state agency, ... in some other way (check one); and

(d) I have not voted and will not vote in this election except by this ballot.

(3) The certification shall be signed under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to five years imprisonment, a fine of up to ten thousand dollars, or both.

Sec. 6. Section 32-916, Revised Statutes Supplement, 2002, is amended to read:

32-916. (1) Two judges of election or a precinct or district inspector and a judge of election shall affix their initials to the official ballots and ballot jackets if any. Before issuing any punch card ballot, the card shall be stamped with a rubber stamp designating that the ballot card is an official ballot and the county in which the card is to be used. The stamp shall be placed on the portion of the ballot card which carries the ballot position numbers and on the stub which is to be reviewed by a judge of election. The stamp shall be furnished to each receiving board by the election commissioner or county clerk. The judge of election shall deliver a ballot to each registered voter after complying with section 32-914.

(2) After voting the ballot, the registered voter shall, as directed by the judge of election, fold his or her ballot or place the ballot in the ballot envelope, jacket, or sleeve so as to conceal the voting marks and to expose the initials affixed on the ballot. The registered voter shall, without delay and without exposing the voting marks upon the ballot, deliver the ballot to the judge of election before leaving the enclosure in which the voting booths or compartments are placed.

(3) The judge of election shall, without exposing the voting marks on the ballot, approve the exposed initials upon the ballot and deposit the ballot in the ballot box in the presence of the registered voter. When punch card ballots are used, the judge of election shall inspect the official initials on the ballot jacket and the official stamp on the stub of the official ballot card which is inside the ballot jacket and shall remove the stub before depositing the ballot in the ballot box. No judge of election shall deposit any ballot in a ballot box unless the ballot has been identified as having the appropriate initials. No judge of election shall deposit any ballot jacket in any ballot box unless the ballot jacket is properly identified. Any ballot or ballot jacket not properly identified shall be rejected in the presence of the voter, the judge of election shall make a notation on the ballot and the ballot jacket Rejected, not properly identified, and another ballot shall be issued to the voter and the voter shall then be permitted to cast his or her ballot. If the ballot and ballot jacket are in order, the judge shall deposit the ballot and ballot jacket in the ballot box in the presence of the voter and the voter shall promptly leave

the polling place. The judges of election shall maintain the secrecy of the rejected ballots and shall cause the rejected ballots to be made up in a sealed packet. The judges of election shall endorse the packet with the words Rejected Ballots and the designation of the precinct. The judges of election shall sign the endorsement label and shall return the packet to the election commissioner or county clerk with a statement by the judges of election showing the number of ballots rejected.

(4) Upon receiving a conditional ballot as provided in section 32-915 or a provisional ballot as provided in section 32-914.03 or section 5 of this act, the judge of election shall copy the information from the change of address form onto the envelope in which the ballot is enclosed or attach the form to the envelope, attach the statement required by section 32-914.03 or 32-915 or section 5 of this act if not contained on the envelope, and place the entire envelope into the ballot box.

Sec. 7. Section 32-947, Revised Statutes Supplement, 2002, is amended to read:

32-947. (1) Upon receipt of an application or other request for an absentee ballot, the election commissioner or county clerk shall ~~deliver to the applicant in person or by mail, postage paid, an absentee ballot if he or she finds that~~ determine (a) whether the applicant is a registered voter and is entitled to vote an absentee ballot as applied for or requested and (b) whether the applicant registered to vote by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county. If the election commissioner or county clerk determines that the voter meets the requirements of subdivision (a) of this subsection, the election commissioner or county clerk shall deliver to the applicant in person or by mail, postage paid, an absentee ballot. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write his or her customary signature on the absentee ballot. If the election commissioner or county clerk determines that the applicant also matches the description in subdivision (b) of this subsection, the election commissioner or county clerk shall include with the ballot written instructions directing the applicant to submit with the ballot a copy of a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter.

(2) An unsealed identification envelope shall be delivered with the ballot, and upon the back of the envelope shall be printed a form substantially as follows:

ABSENTEE VOTER'S IDENTIFICATION

I, the undersigned voter, declare that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

My voting residence in Nebraska is, (street and number or rural route and number) of, (city, village, or township) Nebraska. I am a registered voter of the State of Nebraska.

The primary election ballot, if any, within this envelope is a primary election ballot of the party.

Ballots contained in this envelope are for the (primary, general, or special) election to be held on the day of 20.. .

I hereby declare, under penalty of election falsification, that the statements above are true to the best of my knowledge.

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

.....
(Signature of Voter)

(3) If the absentee ballot and identification envelope are delivered by mail or picked up at the office to be returned by mail, the election commissioner or county clerk shall include with the ballot an identification envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk. The election commissioner or county clerk shall include written instructions on marking and returning the absentee ballot, including notice that failure to sign the identification envelope and include his or her address on the identification envelope will result in the ballot not being counted.

Sec. 8. Original sections 32-312 and 32-319, Reissue Revised Statutes of Nebraska, and sections 32-101, 32-914, 32-916, and 32-947, Revised Statutes Supplement, 2002, are repealed.